

In the Court of District Munsif, Mudukulathur

Present : Ms.J.C.Aparna, B.A, L.L.B.,

District Munsif,

Mudukulathur.

Thursday the 12th day of February 2026

I.A.No.03/2025

in

O.S.No.47/2023

1. Sethupackiyam

2. Ezhilarasi

3. Gomathi

(rep. through their power agent Valli)

..... Petitioner/Plaintiff

/VS/

Pappa

... Respondent/Defendant

This petition came on 08.01.2026 before this court for a final hearing in the presence of R.M.Boominathan, Learned Counsel for the Petitioners/plaintiffs, Thiru.S.Pasumalai, Learned Counsel for the Respondents/defendants and upon hearing petitioner side enquiry and upon perusing the material records and having stood over till this day for consideration, this court delivered the following:

ORDER

This petition has been filed under U/S 35 Indian Stamp act and section 151 C.P.C prays to ascertain stamp duty with penalty and collect the same.

2. The contention of the Petitioners/plaintiffs in brief:-

The petitioner is the power agent of the plaintiffs and files this petition on behalf of the petitioners/plaintiffs. During marking of documents on the side of the petitioners/plaintiffs, an unregistered partition deed was filed but the same

could not be marked as it was unregistered. The said document is vital to prove the case of the petitioners/plaintiffs. Hence this petition.

3. Brief averments of the Respondent/Defendant in brief:

The respondent/defendant deny the averments in the petition. The petitioner has stated that the partition deed was executed in 1977. However, the petitioner's claim that he is ready to pay the penalty is not acceptable. The deed is not relevant to this case. The deed is invalid as it is unregistered. The petitioner has filed this petition to delay the proceedings. Even if the stamp duty is paid along with the payment of a fine, it can be accepted only as a secondary evidence. Hence prays to dismiss the petition.

4. Point for consideration:-

Whether the petition be allowed and the relief be granted as prayed for?

No documents filed on either side. Petitioner side enquiry heard and the petition was reserved for orders by granting liberty for respondent side enquiry on or before 28.01.2026. After giving sufficient opportunities, respondent counsel did not enquire the matter. Available records perused.

5. Answer to the Point:-

5.1. It is case of the petitioner is that During marking of documents on the side of the petitioners/plaintiffs, an unregistered partition deed was filed but the same could not be marked as it was unregistered. The said document is vital to prove the case of the petitioners/plaintiffs.

5.2. It is case of the respondent/defendant is that the petitioner has stated that the partition deed was executed in 1977. However, the petitioner's claim that he is ready to pay the penalty is not acceptable. The deed is not relevant to this case. The deed is invalid as it is unregistered. The petitioner has filed this petition to delay the proceedings. Even if the stamp duty is paid along with the payment of a fine, it can be accepted only as a secondary evidence.

5.3. Heard petitioner side enquiry and perused available records. The main suit is for the relief of declaration and recovery of possession. The petitioner who is the power agent of the petitioners/plaintiffs in the suit and the petitioners/plaintiffs are claiming title in the suit property through the unregistered partition deed dated 28.02.1977. The partition deed is compulsorily registerable as per section 17 of Registration act. Further as per section 33 of Stamp act, the court can impound the document when it is tendered in evidence. Here in this case when the petitioner was examined as PW-1, the unregistered partition deed was sought to be marked, hence the same can be impounded.

5.4. The respondent/defendant claim that the partition deed is invalid and not admissible. The genuinity of the partition deed cannot be looked into at this stage. The respondent/defendant may have the opportunities to defend the same at the time of trial. The respondent/defendant will not be prejudiced for mere marking of partition deed after paying deficit stamp duty. In the light of above discussions, in the result, this petition is allowed and no order as to costs.

6. In the result, this petition is allowed. No order as to costs.

Directly typed by me in my official laptop and formatted by Steno Typist, corrected and pronounced by me in open court on this 12th day of February 2026.

**District Munsif,
Mudukulathur.**

Both side witnesses and documents : Nil

**District Munsif,
Mudukulathur.**